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STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF DENTISTRY  
OAL Docket No. 1128-06N

IN THE MATTER OF THE SUSPENSION :	
OR REVOCATION OF THE LICENSE OF :	
:	
BRUCE I. LEIBOWITZ, D.D.S. :	<u>Administrative Action</u>
LICENSE NUMBER DI 9685 :	
:	
:	Consent Order
TO PRACTICE DENTISTRY IN THE :	
STATE OF NEW JERSEY :	

This matter was opened to the New Jersey State Board of Dentistry (hereinafter "the Board") upon receipt of a complaint against Bruce I. Leibowitz, D.D.S. ("Respondent") that Respondent's work demonstrated a pattern of substandard dental treatment. A review of seven (7) patient files indicated that there were concerns regarding the quality of workmanship and the recordkeeping and diagnostic imaging done by Respondent.

The Board reviewed the patient records and diagnostic images for patients R.W., P.H., P.D.W., J.A., S.V., W.K. and G.S. and the testimony of Respondent before the Board on May 23, 2003. The Board was concerned about Respondent's clinical skills, namely the perforation of the root during the performance of endontia; insufficient post length for the retention of a post supported crown and the placement of a crown on a periodontally compromised tooth (R.W.); placement of a crown on an improperly obturated root canal system and failure to place a provisional crown on a tooth prepared for a final crown, and failure to restore a tooth with an adequately retained direct or indirect restoration (P.D.W.); placement of an inadequate provisional bridge at the time of extractions (J.A.); restoration of a periodontally compromised tooth with a post and crown and the placement of a post in a prepared canal space that lacked sufficient length and resistance and retention form (S.V.); restoration of an endodontically treated tooth with a post with insufficient length for adequate retention, and continued recementation of a post and core crown unit (W.K.); placement of a post through the furcation and not within the palatal canal and the placement of a post in an endodontically treated tooth with insufficient tooth structure to support the post and crown (P.H.); and the placement of a post horizontally between two teeth due to the lateral perforation of the root of one tooth into the adjacent tooth root (G.S.).

On October 24, 2005, the Attorney General filed a Complaint that alleged that Respondent engaged in conduct that violated certain statutes, namely N.J.S.A. 45:1-21(c) gross negligence, gross malpractice or gross incompetence and N.J.S.A. 45:1-21(d) repeated acts of negligence, malpractice or incompetence, as well as relevant Board regulations governing the practice of dentistry in the State of New Jersey. Respondent, through his attorney, filed an Answer to the Complaint denying the allegations and the matter was docketed at the Office of Administrative Law before the Honorable Jesse Strauss, ALJ.

The Board concluded that Respondent has deviated from accepted standards of dentistry practice in his care of patients R.W., P.H., P.D.W., J.A., S.V., W.K., and G.S., contrary to N.J.S.A. 45:1-21(c) and (d). Respondent neither admits or denies these conclusions of the Board.

Respondent Bruce I. Leibowitz, D.D.S., being desirous of resolving this matter without further formal proceeding, and the Board having determined that the within disposition is adequately protective of the public, health, safety and welfare.

IT IS on this 21st day of February 2007,  
ORDERED:

1. Respondent Bruce I. Leibowitz is hereby reprimanded by the State Board of Dentistry.

2. Effective July 1, 2007, Respondent shall surrender his license to practice dentistry in the State of New Jersey, license # DI9685, with prejudice, to be deemed a revocation. Respondent shall surrender his biennial registration, CDS registration, DEA registration and prescription pads bearing his name to investigators from the Enforcement Bureau, Division of Consumer Affairs.

3. Respondent shall comply with the attached directives for dentists whose surrender of licensure has been accepted by the Board, which are attached to this Order and incorporated here by reference. Respondent shall also comply with N.J.A.C. 13:30-8.21 Divestiture of Interest in Professional Corporations by Disqualified Licensees.

4. Effective upon the filing of this Order and until July 1, 2007, or such earlier date upon which Respondent surrenders his license to practice dentistry in the State of New Jersey, Respondent's license shall be suspended, which suspension shall be stayed and served as a period of probation.

5. During this period of probation, Respondent's working hours shall be limited to no more than fifteen hours per week.

6. Respondent shall designate a monitor who shall be a licensed dentist in good standing in New Jersey who shall supervise Respondent's treatment provided during his period of suspension until the surrender of Respondent's license as provided in

paragraph four (4) of this Consent Order. Said monitor must be approved by the Board in advance of assuming his/her duties. The monitor may be Noreen Sheehan, D.M.D. (license DI01752800) or Keiko K. Hutchinson, D.D.S. (license 22DI01613100). Said monitor will evaluate the operative dentistry provided by the Respondent to the dental patients during this period of time, specifically the appropriateness and quality of post and cores and crowns and bridge work. The monitor shall be required to sign patient records confirming that each treatment meets the standard of care in New Jersey. Said monitor will transmit copies of these signed patient records covered by a monthly report to the Board. The monthly report will reference this Consent Order, the fact that the monitor has reviewed the treatment plan and treatment performed by Respondent (specifying patients and treatment) and attesting to the fact that the treatment rendered was or was not within the standard of care in New Jersey.

7. During the period of probation, Respondent must make available to the Board upon request certified copies of charts and/or diagnostic images, to be evaluated for quality of care and record keeping. Should the Board determine that the evaluation must be made by someone other than a Board member, that Board designee shall be paid by Respondent at the rate of \$125/hour. Respondent shall comply fully with whatever recommendations the reviewer makes with regard to quality of care and recordkeeping.

8. Respondent shall pay all costs involved in matter, which costs shall not exceed \$43,579.24, subject to a review by the respondent's counsel within 10 days of the filing of this Order. (Attached certification of costs, Exhibit 1). These costs include, but are not limited to, costs of investigation, expert witness fees and costs and attorney's fees. Said costs shall be submitted by certified check or money order made payable to the State of New Jersey and forwarded to the Board of Dentistry c/o Kevin Earle, Executive Director, State Board of Dentistry, 124 Halsey Street, P.O. Box 45005, Newark, New Jersey 07101. The costs may be made in four equal installments for a four month period, the first payment due within one week from the filing of this Order.

9. Respondent shall pay restitution and penalties in the amount of \$22,250. (Attached itemization of restitution, Exhibit 2). Payment shall be submitted by certified check or money order made payable to the State of New Jersey and forwarded to the Board of Dentistry c/o Kevin Earle, Executive Director, State Board of Dentistry, 124 Halsey Street, P.O. Box 45005, Newark, New Jersey 07101. The restitution and penalties may be made in four equal installments for a four month period, the first payment due within one week from the filing of this order.

10. Upon the filing of this Consent Order, the Board will file a Certificate of Debt for the total amount due. Upon the

satisfaction of the debt, the Board will file a Warrant of Satisfaction.

11. Any matter in which the Board offers restitution to any of the patients referred to in the complaint, the Board shall condition such payment on the execution of a release in language agreeable to both the Board and respondent.

12. This Order shall be a full, complete and final resolution of the matter now pending before the Office of Administrative Law entitled in the Matter of the Suspension or Revocation of the License of Bruce I. Leibowitz, D.D.S. to Practice Dentistry in the State of New Jersey (Docket No. BDS 1128-06) and the parties hereby consent to the Office of Administrative Law closing the matter the returning the matter to the Board.

13. This Order shall be a full complete and final resolution of any violation of any provision of the statutes and regulations governing the practice of dentistry, including but not limited to N.J.S.A. 45:6-1 through 45:6-69 and N.J.A.C. 13:30-1.1 through 13:30-8.22, whether known or unknown by the Board from the inception of Respondent's practice of dentistry until the filing of this Consent Order. In the event the Board receives a patient complaint concerning treatment provided by respondent following the filing of this Consent Order, the Board reserves the right to evaluate the treatment rendered and, should the Board conclude that the treatment rendered is not within the accepted standard of

dentistry care, any action of the Board shall be limited to recommending restitution by respondent to the patient. The respondent reserves all of his rights to defend said patient complaint or decision by the Board.

14. The Board shall retain jurisdiction to enforce the terms of this Order.

NEW JERSEY STATE BOARD OF DENTISTRY

By Peter L. DeScisco  
Peter L. DeScisco, D.M.D.  
President

I have read the within Order.  
I understand the Order and I  
agree to be bound by its terms  
and conditions. I hereby consent  
to the entry of this Order.

Bruce I. Leibowitz, D.D.S.

Dated

We hereby consent to the  
form and entry of this Order

Stephen Schechner, Esq.

Dated

Stuart Rabner  
Attorney General of New Jersey

By Kathy Stroh Mendoza  
Deputy Attorney General

Dated



**DIRECTIVES APPLICABLE TO ANY DENTISTRY BOARD LICENSEE  
WHO IS SUSPENDED, REVOKED OR WHOSE SURRENDER OF LICENSE  
HAS BEEN ACCEPTED**

A practitioner whose license is suspended or revoked or whose surrender of license has been accepted by the Board, shall conduct him/herself as follows:

**1. Document Return and Agency Notification**

The licensee shall promptly deliver to the Board office at 124 Halsey Street, 6th floor, Newark, New Jersey 07102, the original license and current biennial registration certificate, and if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances Registration. With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board.

**2. Practice Cessation**

The licensee shall cease and desist from engaging in the practice of dentistry in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry. The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee of this Board provides health care services. Unless otherwise ordered by the Board, the disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by the practice or any other licensee or health care provider. In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from all prescription blanks and pads, professional listings, telephone directories, professional stationery, or billings. If the licensee's name

is utilized in a group practice title, it shall be deleted.

Prescription pads bearing the licensee's name shall be destroyed. A destruction report form shall be obtained from the Office of Drug Control (973-504-6558) and filed with that office. If no other licensee is providing services at the practice location, all medications must be removed and returned to the manufacturer (if possible), or destroyed or safeguarded. In situations where the licensee has been suspended for a period of less than one year, prescription pads and medications must be secured in a locked place for safekeeping.

### **3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations**

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice, and shall be required to comply with the requirements to divest him/herself of all financial interest in the professional practice pursuant to Board regulations contained in N.J.A.C. 13:30-8.21. Such divestiture shall occur within 90 days following the entry of the Board Order. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the New Jersey Department of Treasury, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

### **4. Patient Records**

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to patient records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her patient's record or asks that the record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

## **5. Probation/Monitoring Conditions**

A disciplined practitioner whose active suspension of license has been stayed in full or in part, conditioned upon compliance with a probation or monitoring program, shall fully cooperate with the Board or its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a.) Monitoring of practice conditions may include, but is not limited to, inspection of professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with Board Order and accepted standards of practice.

(b.) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual or facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by the rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and by providing the designated sample.

## **6. Reports of Reimbursement**

A disciplined practitioner shall promptly report to the Board his/her compliance with each directive requiring monies to be reimbursed to patients to other parties or third party payors or to any Court.

## **7. Report of Changes of Address**

A disciplined practitioner shall notify the Board office in writing within ten (10) days of change of address.

## NOTICE OF REPORTING PRACTICES OF BOARD REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Dentistry are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record thereof, including the transcript and documents marked in evidence, are available for public inspection upon request.

Pursuant to Public Law 101-191, the Health Insurance Portability and Accountability Act, the Board is obligated to report to the Healthcare Integrity and Protection Data Bank any adverse action relating to a dentist:

- (1) Which revokes or suspends (or otherwise restricts) a license; or
- (2) Which censures, reprimands or places on probation, or restricts the right to apply or renew a license; or
- (3) Under which a license is surrendered.

In accordance with an agreement with the American Association of Dental Examiners, a report of all disciplinary orders is provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order may appear on the public agenda for the monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board. In addition, the same description may appear on the Internet Website of the Division of Consumer Affairs.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.

DIV. OF LAW

STEPHEN H SCHECHNER  
Fax: 973 6487462

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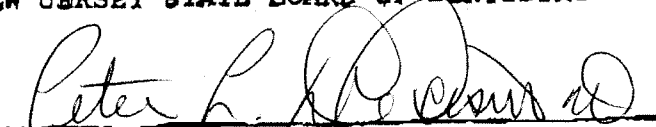
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dentistry care, any action of the Board shall be limited to recommending restitution by respondent to the patient. The respondent reserves all of his rights to defend said patient complaint or decision by the Board.

14. The Board shall retain jurisdiction to enforce the terms of this Order.

## NEW JERSEY STATE BOARD OF DENTISTRY

By

  
Peter L. DeSciscio, D.M.D.  
President

I have read the within Order.  
I understand the Order and I  
agree to be bound by its terms  
and conditions. I hereby consent  
to the entry of this Order.

  
Bruce L. Leibowitz, D.D.S.2/14/07  
Dated

We hereby consent to the  
form and entry of this Order

  
Stephen Schechner, Esq.2/14/07  
Dated

Stuart Rauner  
Attorney General of New Jersey

By

  
Kathy Stroh Mendoza  
Deputy Attorney General2/14/07  
Dated